

1 Lucio Celli
2 89 Widmer Road
3 Wappingers Falls, New York 12590
4 718-547-9675

5 UNITED STATES COURT FOR THE
6 EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JAN 27 2022 ★

BROOKLYN OFFICE

8-1/8/22

7 USA

8 Plaintiff,

9 vs.

10 LUCIO CELLI

11 Defendant

Case No.: 19-cr-00127

MOTION FOR RECONSIDERATION UNDER RULE
59 AS YOUR HONOR MADE A CLEAR ERROR OF
LAW AND FACT: JUDGE ENGELMAYER KNEW
AND UNDERSTOOD MR. SILVERMAN LIED
ABOUT THIRD-PARTY WITNESSES AND I ASK
FOR SANCTIONS AGAINST MR. SILVERMAN



12 Dear Chief Judge Swain and Judge Engelmayer,

13 *This is a rule 60 motion*

14 Mr. Silverman lied to Judge Engelmayer about the fact that
15 I wanted to call over 100 third-party witnesses. The only third-
16 party witness was Mr. Geyh. Mr. Silverman was deliberately
17 talking about primary witness, which AUSAs said is a crime.

18 This was done so that all judges did not have to testify
19 and help Judge Cogan get way with a crime

20 **Please Take Notice**, Your Honor knows that Mr. Silverman lied
21 because you received my emails like Sen. Schumer

22 **Standard for Relief Under Rule 59(e)**

23 A motion to reconsider under rule 59(e) should be granted to correct a clear error, whether of law
24 or of fact, and to prevent a manifest injustice. Firestone v. Firestone, 76 F.3d 1205, 1208 (D.C.
25 Cir. 1996) (the four grounds for reconsideration are: to prevent manifest injustice, to
26 accommodate for an intervening change in controlling law, to account for newly discovered
evidence, or to correct clear error of fact or law); EEOC v. Lockheed Martin Corp., 116 F3d 110,
112 (4th Cir. 1997). So long as the Rule 59(e) motion is timely filed, the courts have considerable
discretion. Lockheed Martin Corp., 116 F3d at 112. Although the courts are not required to

27 *I forgot to delete this paragraph*

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not for Judge Engelmayer

1 consider new legal arguments,¹ or mere "preserve the integrity of the final judgement."
2 Turkmani v. Republic of Bolivia, 273 F. Supp. 2d 45, 50 (D.D.C 2002)

3 **Part 1: DOJ**

4 The DOJ said that what Mr. Silverman and Mr. Taylor were
5 doing to me was a crime and they gave me a Supreme Court case
6 that explained the difference between primary and third-party
witnesses, but I cannot find it and it may be on my computer.

7 **Part 2: These are cases that I had printed out**

8 A witness may testify to a matter only if evidence is
9 introduced sufficient to support a finding that the witness has
10 personal knowledge of the matter. Evidence to prove personal
knowledge may consist of the witness's own testimony. This rule
does not apply to a witness's expert testimony under Rule 703.

11 The threshold for admissibility is low. "A judge should
12 admit witness testimony "if the jury could reasonably find that
13 the witness perceived the event." United States v. Finley, 2014
14 U.S. Dist. LEXIS 123808, *5 (W.D. Pa. Sept. 5, 2014). As another
15 court explained, "[t]estimony should not be excluded for lack of
16 personal knowledge unless no reasonable juror could believe that
the witness had the ability and opportunity to perceive the
event that he testifies about." United States v. Hickey, 917
F.2d 901, 904(6th Cir. 1990).

17 The Rule has also been applied to scrutinize civil
18 pleadings. Where a plaintiff averred that no one reviewed a
19 document, but his assertion did not "indicate that he would have
20 had the opportunity to observe any type of review of the form..."
the Court concluded that "therefore the statement is not within
his personal knowledge." Ripple v. Marble Falls Indep. Sch.
21 Dist., 2015 U.S. Dist. LEXIS 39078, *21 (W.D. Tex. Mar. 27,
22 2015). See also, Adams v. CDM Media, USA, Inc., 346 P.3d 70, 97
23 (Haw. 2015)(" Affidavits in support of a summary judgment motion
are scrutinized to determine whether...[they] are made on the
personal knowledge of the affiant...").

24 The same is true with other categories of opinion
25 testimony. A Texas appellate court applied the personal
knowledge test to preclude testimony as to whether an individual

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27 ¹ Dist. Of Columbia v. Doe, 611 F3d 888 (DC Cir. 2010)

1 was a good prospect for probation because the opining witness
2 lacked "personal knowledge." Patterson v. State, 2015 Tex. App.
3 LEXIS 4930, *5 (Tex. App. Fort Worth May 14, 2015). See also PAS
4 Communs. Inc. v. Sprint Corp., 139 F. Supp. 2d 1149, 1182 (D.
Kan. 2001)(excluding conclusory opinion testimony based on a
lack of personal knowledge).

5 Part 3: Fraud Upon the Court

6 *↓ Rule 60 case law*

7 In Us v. Throkmorton, 98 US 61 (1878), the Court explained what constitutes "extrinsic
8 fraud upon the court." The Court recognized that relief could be granted for "fraud, extrinsic or
9 collateral, to the matter tried by the first court, Id." Such as 'where the defendant never had
10 knowledge of the suit, being kept in ignorance by the plaintiff; or **where an attorney**
11 **fraudulently or without authority assumes to represent a party and convinces at his defeat.**

12 Remedy

13 New trial and Mr. Silverman to explain why he lied to me and
14 Judge Engelmayer, as I have this audio recorded

15
16 *Lucio Celli*

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18 Lucio Celli

19 January 24, 2021

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